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No. 08-1455

Supreme Court, U.S.
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In The

Supreme Court of the United States

RICHARD S. BAUMHAMMERS,

Petitioner,

v.

COMMONWEALTH OF PENNSYLVANIA,

Respondent.

On Petition For Writ Of Certiorari To The Supreme Court Of Pennsylvania

REPLY BRIEF

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REPLY BRIEF FOR PETITIONER RICHARD BAUMHAMMERS

Contrary to Respondent's argument, the issue of whether this Court's ruling in *Atkins v. Virginia*, 536 U.S. 304 (2002), should be extended to the mentally ill is squarely presented by this case. As our opening brief explained, "individuals who are mentally ill suffer many of the same deficiencies and limitations inherent in those individuals who are mentally retarded, and therefore, should be treated similarly in the eyes of the law and entitled to the same protections under *Atkins v. Virginia*, 536 U.S. 304 (2002), and the Eighth Amendment." *See* Petition for Writ of Certiorari at 30-31.

The Respondent further argues that Mr. Baumhammers failed to define his mental illness or to explain why it should preclude imposition of the death penalty. Commonwealth's Brief in Opposition at 44. This is wrong. The record indisputably showed that Mr. Baumhammers suffers from delusional disorder of the persecutory type. *See* DE 104, TT at 1544 (Dr. Ninan), 1588 (Dr. Friedman), 1431 (Dr. Merikangas), 1630 (Dr. Keshevan), 1936 (Dr. Welner), 1791 (Dr. Martone).

The DSM specifically describes and defines delusional disorder. Delusional disorder was previously known as paranoid disorder. A person suffering from delusional disorder cannot tell what is real from what is imagined. The main feature of the disorder is the presence of delusions, which are unshakeable

beliefs in something that is untrue for at least one (1) month's duration and does not have the characteristic symptoms of other psychotic disorders, such as schizophrenia. DSM-IV-TR at 329 (Diagnostic criteria for 297.1 Delusional Disorder). The delusions may involve situations that could occur in everyday life, such as being followed, poisoned, deceived, or conspired against. *Id.*

Mr. Baumhammers' delusional disorder is of the persecutory type. People suffering from this type of disorder believe that they or someone close to them are being mistreated, or that someone is spying on them or planning to harm them. *Cleveland Clinic*, available at http://my.clevelandclinic.org/disorders/delusional_disorder/hic_delusional_disorder.aspx. It is not uncommon for people with this type of delusional disorder to make repeated complaints to legal authorities. Delusional disorder is highly resistant to treatment with medication alone. *Id.* People with severe symptoms, such as Mr. Baumhammers, are at risk of hurting themselves or others and may require hospitalization and observation until the condition is stabilized. *Id.* Acting on the delusions can lead to violence or legal problems, as it is with Mr. Baumhammers. *Id.*

Respondent repeatedly points out that Mr. Baumhammers is a law school graduate in what can only be interpreted as an attempt to downplay his mental illness. However, people who are diagnosed with delusional disorder often can continue to socialize and function quite normally, apart from the

subject of their delusion, and generally do not behave in an obviously odd or bizarre manner. *Id.* Mr. Baumhammers, regardless of his educational background, clearly suffers from a mental illness. The extensive psychiatric testimony throughout the guilt and penalty phase of the trial cannot be ignored.

Mr. Baumhammers submits that the *Atkins* decision should be extended to individuals, like him, who are mentally ill.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted, and the judgment of the Supreme Court of Pennsylvania should be reversed.

This, the 19th day of August, 2009

Respectfully submitted,

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